

To: CN=Rene Fuentes/OU=R10/O=USEPA/C=US@EPA[]
Cc: []
From: CN=Elizabeth Allen/OU=R10/O=USEPA/C=US
Sent: Mon 7/30/2012 3:54:32 PM
Subject: Fw: Proposed First Dispute Resolution Meeting and Requested Ground Rules
rjw@nwnatural.com
sparkinson@jzplaw.com
jworonets@anchorqea.com
(embedded image)

One ring to rule them all, one ring to find them. One ring to bring them all, and in the darkness bind them.

----- Forwarded by Elizabeth Allen/R10/USEPA/US on 07/30/2012 08:53 AM -----

From: Kristine Koch/R10/USEPA/US
To: Lori Cora/R10/USEPA/US@EPA,
Date: 07/30/2012 07:48 AM
Subject: Fw: Proposed First Dispute Resolution Meeting and Requested Ground Rules

What does Bob mean by the statement "able to bind the agency"?

Kristine Koch
Remedial Project Manager
USEPA, Office of Environmental Cleanup

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----- Forwarded by Kristine Koch/R10/USEPA/US on 07/30/2012 07:48 AM -----

From: "Wyatt, Robert" <rjw@nwnatural.com>
To: Deb Yamamoto/R10/USEPA/US@EPA
Cc: Chip Humphrey/R10/USEPA/US@EPA, Elizabeth Allen/R10/USEPA/US@EPA, "jim.mckenna@verdantllc.com" <jim.mckenna@verdantllc.com>, Jennifer Woronets <jworonets@anchorqea.com>, Kristine Koch/R10/USEPA/US@EPA, Sheila Fleming/R10/USEPA/US@EPA, Lori Cora/R10/USEPA/US@EPA, Steve Parkinson <SParkinson@jzplaw.com>
Date: 07/29/2012 05:50 PM
Subject: RE: Proposed First Dispute Resolution Meeting and Requested Ground Rules

Deb,

Thank you for your response confirming that EPA will have people at the meeting who are able to bind the agency. The LWG has also tried to be clear about the focus of this process. As we have said in invoking

dispute resolutions, the focus of our dispute is on the agency's finding of non-compliance and imposition of stipulated penalties, and its directions to the LWG in disregard of prior comments and agreements. The LWG also has significant concerns with the technical issues raised by the agency's directives and is prepared to discuss them in the appropriate context at a subsequent meeting once those issues have been appropriately framed.

Bob

From: Deb Yamamoto [Yamamoto.Deb@epamail.epa.gov]
Sent: Friday, July 27, 2012 12:22 PM
To: Wyatt, Robert
Cc: Chip Humphrey; Elizabeth Allen; jim.mckenna@verdantllc.com; Jennifer Woronets; Kristine Koch; Sheila Fleming; Lori Cora
Subject: RE: Proposed First Dispute Resolution Meeting and Requested Ground Rules

Bob,

Thanks for getting back to me. We are agreeable to going forward with the meeting, however, with respect to no senior managers being at the meeting, I want to be clear that EPA will have people at the meeting who are able to make decisions on behalf of the agency in real time. My goal is to resolve the dispute. Toward that end, we will have our risk assessor at the meeting for discussion on technical issues. It would be helpful to have LWG's risk assessor at the meeting as well. A draft agenda be sent out later today for your review and comment. Please respond back to Lori Cora or Kristine Koch on the agenda.

Deb Yamamoto, Manager
Site Cleanup Unit 2
Environmental Cleanup Office
U.S. Environmental Protection Agency
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"Wyatt, Robert" ---07/26/2012 11:42:56 AM---Hi Deb, Thank you for providing the information on how EPA would like to proceed during the 14-day p

From: "Wyatt, Robert" <rjw@nwnatural.com>
To: Deb Yamamoto/R10/USEPA/US@EPA
Cc: "jim.mckenna@verdantllc.com" <jim.mckenna@verdantllc.com>, Kristine Koch/R10/USEPA/US@EPA, Chip Humphrey/R10/USEPA/US@EPA, Elizabeth Allen/R10/USEPA/US@EPA, Sheila Fleming/R10/USEPA/US@EPA, Jennifer Woronets <jworonets@anchorqea.com>
Date: 07/26/2012 11:42 AM
Subject: RE: Proposed First Dispute Resolution Meeting and Requested Ground Rules

Hi Deb,

Thank you for providing the information on how EPA would like to proceed during the 14-day period. I am the designated Management contact for the LWG. Project Level communications should also be directed to me, with a copy to Jim McKenna and Jen Woronets. The LWG point of contact for legal issues is Steve Parkinson, who should also be copied on all correspondence related to this matter. Contact information for Bob, Jim, Steve and Jen is provided below.

The LWG is available to meet with EPA in Seattle on July 31, 2012 from 9:00 to noon. Our understanding of the focus of the meeting is a discussion of EPA's basis of the notice of noncompliance and the inconsistency of EPA's changes with prior comments and agreements. We will also discuss the process of working through EPA's comments. Bob Wyatt, Jim McKenna, and Steve Parkinson will attend Tuesday's meeting along with individual LWG members, including representatives from the City, Port and UPRR. We understand that EPA will also have legal counsel at this meeting. LWG Senior Managers may also be involved in these discussions, and we will coordinate their participation with you accordingly, but no Senior Managers will participate in next Tuesday's meeting.

The LWG will send representatives to negotiate in good faith with EPA. If proposed resolutions are discussed at meetings, the LWG representatives will seek authority from the LWG to confirm, within the 14-day period, that the proposed resolutions are acceptable to the LWG.

Thank you,

Bob Wyatt

Contact information:

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From: Deb Yamamoto [Yamamoto.Deb@epamail.epa.gov]
Sent: Wednesday, July 25, 2012 10:47 AM
To: Wyatt, Robert

Cc: jim.mckenna@verdantllc.com; Kristine Koch; Humphrey.Chip@epamail.epa.gov; Elizabeth Allen; Sheila Fleming
Subject: Proposed First Dispute Resolution Meeting and Requested Ground Rules

Hi Bob,

EPA is in receipt of the LWG's Notice of Objection to EPA Notice of Non-Compliance and Directed Revisions to the Portland Harbor Draft Final Baseline Human Health Risk Assessment and Request for Dispute Resolution dated July 23, 2012. EPA is reviewing the documents that you provided in support of your Notice of Objection.

I am writing this email because now that a dispute has been raised, typically EPA's first line management participates in trying to resolve disputed issues. The AOC provides that there is a 14-day period for seeking to reach resolution prior to the LWG deciding whether to seek the Office Director's decision. We would like to schedule a meeting in Seattle on Tuesday, July 31, 2012, from 9:00 a.m. to noon as our first session to work through the issues. We hope the LWG can accommodate this day and time because EPA's toxicologist will be having minor surgery and out of the office for the next couple days after the 31st.

Another protocol issue I would like to get established are the LWG's points of contact for project level, legal, and management communications as we go through this dispute process. It will be more efficient if EPA has specific people to call to arrange meetings, discuss issues, make proposals, etc. Please supply us with the names and contact information for each of those three levels.

We believe it very important that when EPA and the LWG meet during the next 14 days that all parties come in good faith to seek resolution of the issues and that all parties come with the authority to agree to resolutions. Please provide your confirmation that the LWG will staff meetings in such a way to have authority to make agreements on dispute issues. If managers need to be involved but cannot make the meeting, I trust they will be available for caucuses or other real time consultation.

We look forward to hearing back from you on our proposed meeting day and time and other protocol matters.

Deb Yamamoto, Manager
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